

APR 05 2007

Atty. Docket No. 016072-000600US

PTO FAX NO.: (571) 273-8300

ATTENTION: Office of Petitions

Group Art Unit 2876

OFFICIAL COMMUNICATION

FOR THE ATTENTION OF

**OFFICE OF PETITIONS
(Christina Tartera Donnell
Senior Petitions Attorney)**

CERTIFICATION OF FACSIMILE TRANSMISSION

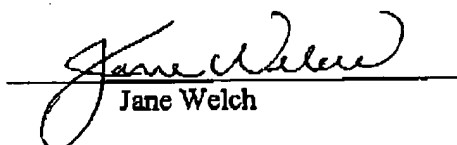
I hereby certify that the following documents in re Application of PETER RUDLOFF, Application No. 09/403,174, filed October 18, 1999 for SYSTEM AND METHOD FOR IDENTIFYING AND AUTHENTICATING ACCESSORIES, AUXILIARY AGENTS AND/OR FUELS FOR TECHNICAL APPARATUS, are being facsimile-transmitted to the Patent and Trademark Office on the date shown below.

Documents Attached

1. Letter, and copy of Decision on Petition dated October 16, 2006, and Renewed Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)

Number of pages being transmitted, including this page: 8

Dated: April 5, 2007


Jane Welch

**PLEASE CONFIRM RECEIPT OF THIS PAPER BY
RETURN FACSIMILE AT (415) 576-0300**

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834
Telephone: 415-576-0200
Fax: 415-576-0300
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APR 05 2007

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Two Embarcadero Center
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April 5, 2007

Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attention: Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Re: **Renewed Petition Under 37 CFR 1.137(b)** for Revival of
U.S. Patent Application No. 09/403,174 filed October 18, 1999 for:
"System and Method for Identifying and Authenticating Accessories,
Auxiliary Agents and/or Fuels for Technical Apparatus"
Our File: 016072-000600US

Dear Ms. Donnell:

This is a follow-up to our telephone conversation of April 4, 2007, during which we briefly discussed the Decision on Petition dated October 16, 2006 (copy attached).

That Decision denied the applicant's Petition for Revival because the Petition was not accompanied by the required Appeal Brief. The Petition provides that a reconsideration request must include a cover letter, and that no petition fee therefor is necessary.

On December 13, 2006 the revised Appeal Brief (which was not attached to the original Petition) was filed. The first paragraph on page 1 of the Brief states that it was filed in response to your October 16, 2006 Decision. At the time the Brief was filed I was hospitalized, and as a result a Renewed Petition for Revival was inadvertently not submitted.

Attached hereto is a Renewed Petition for Revival of the application pursuant to 37 CFR 1.137(b). In accordance with the statement on page 2 of the October 16 Decision, no additional petition fee is necessary, and I have indicated this on the accompanying Renewed Petition.

The revised Appeal Brief is of record in this case and, therefore, I have not attached a further copy hereto. I trust this is in order. If not, I would appreciate it if you could give me a call and I can fax a copy of the Brief to you.

I believe that the Renewed Petition for Revival is now grantable, and such a decision at an early date is requested so that the appeal can move forward.

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Office of Petitions
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April 5, 2007
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I do not believe that any fee is due in connection with this letter and/or the attached Renewed Petition for Revival. However, if a fee should be due, please charge it to Deposit Account No. 20-1430.

If it is believed that a telephone conference would expedite prosecution of this application, please telephone the undersigned at (415) 273-4730 (direct dial).

Respectfully submitted,


J. Georg Seka
Reg. No. 24,491

JGS:jhw
Enclosures
61023326 v1

APR 05 2007

0:072-000600US
JGSSF

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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OCT 16 2006

OFFICE OF PETITIONS

Response Due 12/16/06In re Application of
Peter Rudloff
Application No. 09/403,174
Filed: October 18, 1999
Attorney Docket No. 016072-000600US

DECISION ON PETITION

This is a decision on the petition filed February 16, 2006, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment and a petition under 37 CFR 1.137(b) to revive the above-identified application.

On September 2, 2004, the Office mailed a Notification of Non-Compliance with 37 CFR 1.192(c), stating that the appeal brief filed on June 18, 2004, was defective for failure to comply with 37 CFR 1.192(c)(5). The Notification indicated that the brief did not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters. Furthermore, to avoid dismissal of the appeal, petitioner was required to file a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of three time periods: (1) one month or thirty days from the mailing date of the Notification; (2) two months from the date of the notice of appeal; or (3) within the period for reply to the action from which the appeal was taken. Extensions of these time periods were permitted under 37 CFR 1.136. On September 20, 2005, the Office mailed a Notice of Abandonment.

In the petition, petitioner requested that the Office withdraw the Notification of Non-Compliance because 37 CFR 1.192(c)(5), requiring a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters, was not in effect when the Appeal Brief was filed. Therefore, petitioner asserted that the Appeal Brief was properly filed and reproduced the Appeal Brief for the examiner's convenience.

The Office notes that § 1.192(c)(5) as it reads above was in effect at the time petitioner filed the Appeal Brief. See *MPEP Eighth Edition, Revision 2 (May 2004)*. The Notification of Non-Compliance with 37 CFR 1.192(c) was correct and properly mailed, and therefore, will not be withdrawn.

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Application No. 09/403,174

The petition under 37 CFR 1.181 is dismissed.

As to the petition to revive, the provisions of 37 CFR 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed.
- (2) The petition fee as set forth in 37 CFR 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
- (4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The present petition does not satisfy requirement (1) above.

The record reveals that petitioner did not submit an appropriate response to the outstanding Office communication previously or with the present petition. Accordingly, the petition under 37 CFR 1.137(b) is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request must include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)," as well as an appropriate reply. No additional petition fee is necessary.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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Application No. 09/403,174

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

APR 05 2007

PTO/SB/84 (09-06)

**RENEWED PETITION FOR REVIVAL OF AN APPLICATION
FOR PATENT ABANDONED UNINTENTIONALLY UNDER
37 CFR 1.137(b)**Docket Number (Optional)
16072-6

First named inventor: PETER RUDLOFF

Application No.: 09/403,174

Art Unit: 1761

Filed: October 18, 1999

Examiner: Drew E. Becker

Title: SYSTEM AND METHOD FOR IDENTIFYING AND AUTHENTICATING ACCESSORIES, AUXILIARY
AGENTS AND/OR FUELS FOR TECHNICAL APPARATUSAttention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX: (571) 273-8300NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (571) 272-3282.The above-identified application became abandoned for failure to file a timely and proper reply to a notice or
action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration
date of the period set for reply in the office notice or action plus any extensions of time actually obtained.**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee — required for all utility and plant applications
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

- ☐ Small entity — fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
- ☒ Other than small entity — fee \$ (this fee was previously paid) (37 CFR 1.17(m)).

2. Reply and/or feeA. The reply and/or fee to the above-noted Office action in
the form of Appeal Brief (identify type of reply):

- ☒ has been filed previously on December 13, 2006
- ☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____

- ☐ has been paid previously on _____
- ☐ is enclosed herewith.

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PTO/SB/64 (09-08)

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. ☐ For fees authorized to be paid hereinabove, the Commissioner is hereby authorized to charge the fees, any deficiency of fees, and credit of any overpayments, to Deposit Account No. 20-1430.

5. **STATEMENT:** The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.


 Signature

April 5, 2007

Date

J. Georg Seka

Typed or printed name

24,491

Registration Number, if applicable

Townsend and Townsend and Crew LLP

Address

415/576-0200

Telephone Number

Two Embarcadero Center, 8th Floor, San Francisco, CA 94111

Address

- Enclosures: ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
- ☒ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

April 5, 2007

Date


 Signature

Jane Welch

Typed or printed name of person signing certificate

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